

MEMORANDUM OF UNDERSTANDING
BETWEEN
FARMERS HOME ADMINISTRATION AND THE U.S. FISH AND WILDLIFE SERVICE
ESTABLISHING PROCEDURES FOR INTERAGENCY COORDINATION ON
FISH AND WILDLIFE RESOURCE ISSUES AFFECTING FARMER PROGRAMS

Purpose and Policy

In complying with Federal environmental protection laws, regulations, and Executive Orders and assessing the potential environmental impacts of its actions, including the making of loans and disposal of lands or interests in such lands, the Farmers Home Administration (FmHA) consults with appropriate Federal, State, or local agencies on the technical aspects of environmental planning, including impact analysis and mitigation alternatives. This Memorandum of Understanding (MOU) sets forth the consultation procedures to be followed by FmHA and the U.S. Fish and Wildlife Service (Service). Of particular relevance to this MOU is FmHA's need to consult with the Service in implementing FmHA's affirmative responsibilities to protect and enhance wetland resources under the requirements of Executive Order 11990, Protection of Wetlands, and as further specified in 7 CFR Part 1940, Subpart G. This MOU does not supersede consultation as required under Section 7 of the Endangered Species Act; however, every effort will be made to use this MOU to facilitate early coordination on endangered species concerns.

The Service has the expertise and capability to act as technical consultant to FmHA on matters dealing with fish and wildlife resources and other environmental analyses, including recommendations for protection and restoration/enhancement of wetlands, floodplain habitats, and coastal barrier resources and for endangered, threatened, and/or candidate species and other fish and wildlife resources for which the Federal Government has national or international management responsibilities. The Service has the expertise to act as advocates for the fish and wildlife resource interest(s) of State or local agencies or private non-profit organizations. In carrying out these responsibilities, the Service will act as liaison between FmHA and State fish and wildlife agencies and non-profit organizations having fish and wildlife conservation as a focus, to ensure that State and private concerns are fully considered.

In addition, the Food Security Act of 1985 (Act) provides important new opportunities for strengthening the farm economy and contributing to fish and wildlife resource conservation and wetlands protection and restoration. Section 1318 of the Act stipulates a role of the Service to assist FmHA in:

- (1) selecting real property in which the Secretary (Agriculture) may acquire easements for conservation, recreation, and wildlife purposes;
- (2) formulating the terms and conditions of such easements; and
- (3) enforcing such easements.

Section 1314 of the Act provides an opportunity for easements, restrictions, development rights, or the equivalent of these items to be granted or sold, for conservation purposes, to units of State or local governments or private non-profit organizations separately from the farm properties in FmHA's inventory.

Therefore, FmHA and the Service agree to coordinate efforts to meet national environmental and farm program objectives through cooperative implementation of the Act, Executive Order 11990, and FmHA's existing environmental planning procedures.

Procedures

- I. Loan application processing: In completing environmental analyses associated with farm ownership and other FmHA Farmer Program loans (insured and guaranteed), FmHA will invite assistance from the Service in accordance with 7 CFR Part 1940, Subpart G. To reduce the possibility that Important Resources (Attachment I) may be inadvertently impacted as a result of FmHA loans, the following process will be employed as a part of loan processing actions:
 - A. the Service will provide FmHA County Offices with periodic updates of appropriate information on Important Resources for inclusion in FmHA's Natural Resource Management Guides;
 - B. the FmHA County Supervisors will review information provided by the Service in processing Farmer Program loan applications;
 - C. the FmHA County Supervisor will coordinate with the appropriate field office of the Service if:
 - (1) there is potential for the Important Resources to be affected through a proposed change in the farm's land use; or
 - (2) the County Supervisor is unsure regarding the possible presence of threatened, endangered, or candidate species or their habitat;

- D. in areas identified by the Service as a high priority for threatened/endangered species and/or migratory birds, especially waterfowl, FmHA County Supervisors will allow the Service the opportunity to provide comments, and will fully consider such comments in developing environmental mitigation measures for individual Farmer Program applications. The Service will identify such areas and will provide such to FmHA as appropriate.
- II. Section 1318: It is the intent of both FmHA and the Service to amend this MOU to incorporate consultation procedures for Section 1318 when regulations are finalized and that program becomes effective.
- III. Inventory land disposal process, including Section 1314 requests: In completing environmental analyses preparatory to leasing or disposal of inventory properties, including interests in such properties, FmHA will request the Service's assistance. The Service will be afforded the opportunity to provide input and recommendations regarding Important Resources. The Service input, including State agency and private non-profit concerns, will be sought and provided as early as possible in FmHA's suitable/surplus determination process. Whenever Important Resources are identified by the Service, the Service will assist FmHA in the development of lease or deed restrictions consistent with protecting or restoring such resources and the requirements of 7 CFR Part 1940, Subpart G. FmHA will give full consideration to Service recommendations in completion of environmental analyses prior to disposal actions.

Once FmHA has acquired lands through voluntary conveyance or other means, the following process will be employed as part of disposal actions:

- A. the FmHA County Supervisors will notify the appropriate field office(s) of the Service of lands currently in inventory and of additional parcels as they are acquired. Notification should include locations, a legal description of the property if available, approximate acreage, and other descriptive information as appropriate (e.g., maps);
- B. the Service will in-turn provide the County Supervisor with assistance in identifying the presence of Important Resources listed in Attachment 1, and if present, with recommended fish and wildlife conservation measures for inclusion in the environmental analysis, suitable/surplus determination process, and subsequent disposal actions;
- C. the Service's contribution to FmHA's environmental analysis process will address the following, as appropriate:
 - (1) existing and potential occurrence and condition of Important Resources on the tract(s);

- (2) emergency fish and wildlife conservation measures needed to protect or conserve environmental value(s) of the tract(s);
 - (3) additional, long-term fish and wildlife conservation measures needed to meet FmHA mandates to conserve, protect, and enhance Important Resources and land uses such as:
 - (a) the need for wetland protection and enhancement actions in response to Executive Order 11990. In this regard the Service will assist FmHA by identifying important wetland protection opportunities and by formulating and implementing or sponsoring the implementation by a third party (e.g., Ducks Unlimited) of mutually acceptable plans for wetland restoration/enhancement;
 - (b) recommended lease or deed restrictions needed to protect Important Resources and land uses (e.g., prior to sale the deed would be restricted to protect wetlands or floodplain habitats from conversion to other land uses); or
 - (c) easements, restrictions, or the equivalent to be considered for grant or sale to units of local or State government or private non-profit organizations for conservation purposes;
 - (4) identification of management, monitoring and/or enforcement entities for recommended conservation measures, easements, and lease/deed restrictions;
- D. when high resource values warrant retention of a property in public ownership, the Service may recommend that FmHA pursue all available avenues to grant or sell easements, restrictions, development rights, or their equivalents to State or local agencies or private non-profit organizations. The Service may also indicate a desire to bid and acquire the property itself should FmHA declare that property surplus and offer it for sale. In order for such recommendations to be feasibly considered by FmHA, the Service field staff will consult with FmHA to gain an understanding of FmHA's property transfer authorities, priorities, and procedures; and
- E. Service recommendations will be submitted to, and considered by, the County Supervisor prior to any suitable/surplus determinations, or if such determinations have already been made, they shall be considered upon receipt. For those properties currently in inventory, fish and wildlife conservation measures will be developed prior to resale

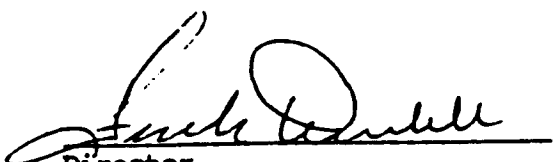
whenever required by FmHA regulations. Recommendations accepted by FmHA will then be included in subsequent disposal actions.

IV. General: Each agency will designate appropriate field and State Coordinators to implement this Memorandum of Understanding.

- A. FmHA County Supervisors will serve as day-to-day field coordinators for lands within their jurisdiction. FmHA State Directors will appoint either the Farmer Programs Chief or State Environmental Coordinator (with the other named as alternate) as the overall FmHA State Coordinator for implementing this document.
- B. Service Regional Directors will designate State Coordinator(s) for each State to work directly with FmHA County Supervisors and FmHA State Coordinators to implement this document. The Service State Coordinator will be assisted by designated biologists responsible for field reviews.
- C. Within 30 days of the enactment of this Memorandum of Understanding the State Coordinator for each agency will meet to initiate appropriate implementation activities (e.g., establish protocols, identify county contacts, screen existing inventory tracts, prepare for processing new tracts).
- D. Timeframes for notification, analyses, reviews, resulting actions and transmittal of comments will conform to FmHA requirements. Telephone responses, followed by written documentation, are acceptable. Unless otherwise mutually agreed to by the Service State Coordinator and the affected County Supervisor, the Service will complete its review and provide a written response for inventory property matters within 45 calendar days from notification of the opportunity to comment. For technical assistance requests involving Farmer Program applications (loan), the Service will respond within 15 days of the request unless FmHA indicates in its request that a guaranteed loan involving an Approved Lender is concerned, in which case the Service will respond within 10 days of the FmHA request (in most cases, this can be handled via telephone response). If the Service does not respond within these timeframes, FmHA may proceed to make any required environmental review and analysis on its own.


Final decisions, including any land disposal actions, shall rest with the FmHA approval official for the action. Resolution of outstanding issues within a State will be at the State Coordinator level and will not incumber the specific action in which the question arises. Unresolved issues and those of a multi-State nature will be addressed at the Regional and/or Washington Office level of the Service and the National Office level of FmHA.

This Memorandum of Understanding is effective immediately upon the last signature date below and will continue in effect until modified or revoked by agreement of both parties, or revoked by either party alone upon 30 days written notice. Modifications to this document may be made by mutual agreement and such modifications will be in effect upon signature of the modified document.



Director,
U.S. Fish and Wildlife Service

5/1/87
Date



Administrator,
Farmers Home Administration

May 14 1987
Date